

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

FILED

FEB 28 2000

NANCY MAYER-WHITTINGTON, CLERK
U.S. DISTRICT COURT

In re: Vitamins Antitrust Litigation

This document relates to:

Blue Seal Feeds, Inc., et al. v. Akzo Nobel, Inc., et al.
C.A. No. 99-3226 (C.D. Ill. Sept. 2, 1999),
Docket No. 99-2683;

Misc. No. 99-197 (TFH)

Tyson Foods, Inc., et al. v. Akzo Nobel, Inc., et al.
C.A. No. 99-5134 (W.D. Ark. Aug. 19, 1999),
Docket No. 99-2681;

MDL No. 1285

Southern States Coop., Inc., et al. v. Akzo Nobel, Inc., et al.
C.A. No. 5:99-CV-00070 (W.D. Va. Aug. 20, 1999),
Docket No. 99-2685;

Cactus Operating, Ltd., et al. v. Akzo Nobel, Inc., et al.
C.A. No. 2:99-CV-288-J (N.D. Tex. Aug. 27, 1999),
Docket No. 99-2684;

Marshall Durbin Farms, Inc., et al. v. Akzo Nobel, Inc., et al.
C.A. No. 2:99-CV-0152-WCO (N.D. Ga. Sept. 7, 1999),
Docket No. 99-2682;

The Quaker Oats Company v. BASF AG, et al.
C.A. No. 1:99-CV-01972 (D.D.C. Jul. 7, 1999),
Docket No. 99-1972;

Kellogg Company v. BASF AG, et al.
C.A. No. 99-1996 (TFH) (D.D.C. Sept. 27, 1999),
Docket No. 99-1996;

Meijer, Inc. v. F. Hoffman-La Roche, Ltd., et al.
C.A. No. C-1-99-789 (W.D. Mich. Oct. 12, 1999)
Docket No. 99-789;

Cargill, Inc., et al. v. F. Hoffman-La Roche Ltd., et al.
C.A. No. 99-C-5167 (N.D. Ill. Oct. 4, 1999)
Docket No. 99-789 and

Nutra-Blend, L.L.C. v. F. Hoffman-La Roche Ltd., et al.
C.A. No. 99-3329 (W.D. Mo. Sept. 7, 1999)
Docket No. 99-197.

**STIPULATION AND ORDER REGARDING
JURISDICTIONAL BRIEFING SCHEDULE
FOR DAIICHI PHARMACEUTICAL CO., LTD.'S
RESPONSES TO THE COMPLAINTS**

Plaintiffs in the above-captioned cases ("Plaintiffs") have effected service on Daiichi Pharmaceutical Co., Ltd. ("DSK"). On January 24, 2000, Defendants F. Hoffman-La Roche Ltd. and BASF AG filed motions to dismiss based on lack of personal jurisdiction in certain of the above-captioned cases, limited exclusively to the following preliminary legal issue: Whether personal jurisdiction should be measured by local contacts with the transferor forum ("Local Contacts") or national contacts with the United States as a whole ("National Contacts") (hereinafter the "Jurisdiction Issue"). On January 24, 2000, pursuant to stipulated order (Docket No. 408) certain defendants filed motions addressing, among other things, the Jurisdiction Issue. Briefing on the Jurisdiction Issue will be complete on March 3, 2000. Oral argument on motions to dismiss the complaint in *Cargill, Inc., et al. v. F. Hoffman-La Roche, Ltd., et al.*, Case No. 99-CV-5167, that were filed by defendants F. Hoffman-La Roche Ltd. and BASF AG is currently scheduled for March 16, 2000. The Jurisdiction Issue will also be addressed during the March 16 oral argument by the parties that have completed briefing that issue. The Plaintiffs and DSK believe that it would be more efficient for the Court and for the parties if DSK answers, moves against, or otherwise responds to the complaints in the above-captioned cases as set forth below.

IT IS HEREBY STIPULATED AND AGREED, by and between counsel for the undersigned parties, that:

DSK's time to answer, move against, or otherwise respond to the complaints in these matters shall be extended to and including twenty (20) days after this Court's ruling on the

motions addressed to the Jurisdiction Issue. DSK agrees to be bound by the Court's ruling on the Jurisdiction Issue, except that DSK reserves the right to seek to appeal the Jurisdiction Issue should the Court determine that the relevant forum is the United States as a whole. If upon final disposition the relevant forum is held to be the United States as a whole, DSK will not dispute that it is subject to personal jurisdiction in each of the above-listed cases. Otherwise, DSK reserves the right to argue that its contacts, if any, with particular forum states are insufficient to subject it to personal jurisdiction in any or all of the above-listed cases, with one exception as described below.

With regard to the vitamins antitrust litigation that is the subject of the above-listed cases, DSK is subject to personal jurisdiction in Illinois. Because DSK is amenable to suit in at least one state, the nationwide contacts test of Federal Rule of Civil Procedure 4(k)(2) does not apply to DSK. DSK will not contest personal jurisdiction with regard to the Cargill complaint filed in the Northern District of Illinois. To maintain a parallel schedule with the other above-listed cases, DSK's time to answer the Cargill complaint shall be extended to and including twenty (20) days after this Court's ruling on the motions addressed to the Jurisdiction Issue.

Except as provided above with respect to the Cargill complaint, this stipulation is not intended to waive any other defenses, including the defense of insufficiency of service of process.

Dated: February 22, 2000

Respectfully submitted,

By:


John Kinney

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with permiss.
MNK

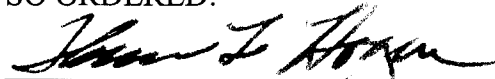
On behalf of Plaintiffs in the above-captioned cases.



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Counsel for Defendant Daiichi Pharmaceutical Co., Ltd.

SO ORDERED:



Thomas F. Hogan
United States District Judge

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Feb. 28, 2000